

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Bryan E. Ransom v. Herr, et al.

Ransom v. Herr · No. 2:20-CV-1209-DJC-DMC-P · Decided June 6, 2025

SUMMARY

The document contains findings and recommendations in a pro se civil rights action under 42 U.S.C. § 1983. The magistrate judge recommends dismissal without prejudice for lack of prosecution and failure to comply with the Eastern District of California's change-of-address requirement after mail was returned as undeliverable.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 6, 2025
DOCKET	2:20-CV-1209-DJC-DMC-P
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a pro se prisoner civil-rights action for lack of prosecution and failure to comply with court rules and orders.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test governing dismissal as a sanction, weighing the public interest in expeditious resolution, the court's need to manage its docket, prejudice to opposing parties, the policy favoring decisions on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Bryan E. Ransom v. Herr, et al.

TOPICS

- sanctions
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether dismissal without prejudice for lack of prosecution and failure to comply with court rules and orders was appropriate after a pro se plaintiff failed to file a required notice of change of address.
2. Whether the five-factor dismissal framework and consideration of less drastic sanctions supported dismissal.

HOLDINGS

1. Dismissal without prejudice was appropriate because Plaintiff failed to file a required notice of change of address after mail was returned as undeliverable and more than 30 days had elapsed.
2. A warning that the action may be dismissed is a less drastic alternative sufficient to satisfy the final factor of the dismissal analysis.

KEY QUOTATIONS

“The Court must weigh five factors before imposing the harsh sanction of dismissal.” (at 1)

“Based on the foregoing, the undersigned recommends that this action be dismissed, without prejudice, for lack of prosecution and failure to comply with court rules and orders.” (at 2)

FACTUAL BACKGROUND

Plaintiff proceeded pro se in a § 1983 civil-rights action. Mail directed to him was returned by the Postal Service as undeliverable on March 17 and April 17, 2025. More than 30 days elapsed after the second returned mailing, but Plaintiff did not notify the court of a change of address as required by Local Rule 183(b).

PROCEDURAL HISTORY

Plaintiff brought this action under 42 U.S.C. § 1983. Mail sent to Plaintiff was returned as undeliverable on March 17 and April 17, 2025. After Plaintiff failed to file a change-of-address notice within the 30 days required by Eastern District of California Local Rule 183(b), the magistrate judge recommended dismissal without prejudice, subject to objections within 14 days.

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130, 132-33 & n.1 (9th Cir. 1987)
- *Ghazali v. Moran*, 46 F.3d 52, 53 (th Cir. 1995) (per curiam)
- *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)

- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (per curiam)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 BRYAN E. RANSOM, No. 2:20-CV-1209-DJC-DMC-P 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 HERR, et al., 15 Defendants. 16 17
Plaintiff, who is proceeding pro se, brings this civil rights action pursuant to 42 18 U.S.C. § 1983.
19 On March 17, 2025, and again on April 17, 2025, mail directed to Plaintiff was 20 returned by
the United States Postal Service as undeliverable.

Pursuant to Eastern District of 21 California Local Rule 183(b), any party appearing pro se must
file and serve a notice of change of 22 address within 30 days of mail being returned. To date,
more than 30 days have elapsed since 23 mail was last returned and Plaintiff has not notified the
Court of a change of address. 24 The Court must weigh five factors before imposing the harsh
sanction of dismissal.

25 See Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000); Malone v. U.S. Postal
26 Service, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in 27
expeditious resolution of litigation; (2) the Court's need to manage its own docket; (3) the risk of
28 prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits;
1 | and (5) the availability of less drastic sanctions.

See *id.*; see also Ghazali v. Moran, 46 F.3d 52, 2 | 53 (th Cir. 1995) (per curiam). A warning that
the action may be dismissed as an appropriate 3 || sanction is considered a less drastic alternative
sufficient to satisfy the last factor. See Malone, 4 | 833 F.2d at 132-33 & n.1.

The sanction of dismissal for lack of prosecution is appropriate where 5 || there has been
unreasonable delay. See Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 6 || 1986). Dismissal
has also been held to be an appropriate sanction for failure to inform the district 7 || court and
parties of a change of address pursuant to local rules. See Carey v. King, 856 F.2d 8 | 1439, 1440-
41 (9th Cir.

1988) (per curiam). 9 Having considered these factors, and in light of Plaintiff's failure to submit a
10 || notice of change of address, the Court finds that dismissal of this action is appropriate. 11
Based on the foregoing, the undersigned recommends that this action be dismissed, 12 || without
prejudice, for lack of prosecution and failure to comply with court rules and orders.

13 These findings and recommendations are submitted to the United States District 14 || Judge
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within 14 days 15 || after
being served with these findings and recommendations, any party may file written 16 || objections

with the court. Responses to objections shall be filed within 14 days after service of 17 || objections.

Failure to file objections within the specified time may waive the right to appeal. See 18 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 19 20 | Dated: June 5, 2025 Co 21 DENNIS M. COTA 02 UNITED STATES MAGISTRATE JUDGE 23 24 25 26 27 28

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